



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2011 Biennium

<b>Bill #</b>	SB0260	<b>Title:</b>	Revise tax on publicly traded partnerships
<b>Primary Sponsor:</b>	Gillan, Kim	<b>Status:</b>	As Amended

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input type="checkbox"/> Needs to be included in HB 2  | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	(\$500,000)	(\$500,000)	(\$500,000)	(\$500,000)
<b>Net Impact-General Fund Balance:</b>	<u>(\$500,000)</u>	<u>(\$500,000)</u>	<u>(\$500,000)</u>	<u>(\$500,000)</u>

**Description of fiscal impact:** The bill as amended is estimated to reduce general fund revenue by \$0.5 million each year.

### FISCAL ANALYSIS

#### Assumptions:

- Under current law, pass-through entities are required to either file a composite return and pay tax on behalf of the owners or file an agreement on behalf of each non-resident owner, in which the owner agrees to file a return and pay tax. Publicly traded partnerships (PTPs) have difficulty complying with this requirement because their ownership interests are traded on public markets, and ownership can change on a daily basis. Owners of the publicly traded shares of publicly traded partnerships may not be aware of the source of the income they receive from their partnership interest, and therefore may be incorrectly paying tax on this income to their home state rather than to the income source state.
- The bill allows PTPs who provides records of ownership for those owners who have more than \$500 in Montana source income to be exempt from filing a composite return.
- Discussion with industry representatives and review of K-1 tax reporting records indicates that owners with less than \$500 in Montana source income receive between 10% to 40% of the PTP's Montana source income. This fiscal note estimates that owners with less than \$500 in Montana source income represent 25%  $((10\%+40\%) / 2)$  of Montana source income and subsequent state income tax liability.
- The PTP tax liability was estimated to be about \$2.0 million for tax year 2006.

5. The estimated revenue loss from the proposed provision allowing exclusion of those with less than \$500 of Montana source income from the information return is \$500,000 per year (25% of \$2 million).
6. This bill is effective upon passage and approval. The provisions of this bill apply to tax years beginning after December 31, 2008.

	<b><u>FY 2010 Difference</u></b>	<b><u>FY 2011 Difference</u></b>	<b><u>FY 2012 Difference</u></b>	<b><u>FY 2013 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b><u>Revenues:</u></b>				
General Fund (01)	(\$500,000)	(\$500,000)	(\$500,000)	(\$500,000)
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$500,000)	(\$500,000)	(\$500,000)	(\$500,000)

**Technical Notes:**

1. On page 4 of the amended bill, part (7) states the PTP who files an annual information return reporting the name, address and taxpayer identification number for each person or entity that has an interest in the partnership will provide it in electronic form capable of being sorted and exported. The potential cost to the state of compliance activities using this proposed information return would be reduced if the information return also provided the income and Montana apportionment information. DOR also recommends that the language be modified to require the filing to be in a format determined by the department in order to minimize additional compliance costs.
2. The alternative informational filing proposed in this bill may increase the costs of compliance due to the need to research the possible Montana tax liability and, if necessary, contact individual taxpayers. Conversely, the alternative informational filing and revision of Montana source income proposed in this bill may increase collections.

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*Sponsor's Initials*\_\_\_\_\_  
*Date*\_\_\_\_\_  
*Budget Director's Initials*\_\_\_\_\_  
*Date*